IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WP(C).No. 21967 of 2006(M)

PETITIONER:

ALAVI HAJI, S/O. MOIDEENKUTTY HAJI,
VARIKKAPPURAKKAL HOUSE, KUTTIPPURAM P.O.,
TIRUR TALUK.

BY ADV. SRI.A.KRISHNAN

RESPONDENTS:

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1. NOORUL ISLAM SANGHAM
REPRESENTED BY ITS SECRETARY,
KUTTIPPURAM P.O., TIRUR TALUK.

2. SECRETARY, KERALA STATE WAKF BOARD,
ERNAKULAM, KOCHI.

BY ADV. SRI.P.A.ABDUL JABBAR, SC, WAKF BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 21967/2006 M

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE AFFIDAVIT DT. 26/8/97.

EXT.P2. COPY OF THE JUDMENT DT. 7/10/02 IN OP NO. 3868/2001.

EXT.P3. COPY OF THE AFFIDAVIT DT. 31/08/03.

EXT.P4. COPY OF THE APPLICATION DT. 4/10/2005.

EXT.P5. COPY OF THE ORDER DT.17/11/2005.

EXT.P6. COPY OF THE ORDER DT. 24/6/2006.

True copy

M.N.KRISHNAN, J.

WP(C)No.21967 OF 2006 M

Dated this the 25th May, 2007.

JUDGMENT

This writ petition is filed requesting to set aside Ext.P5 to the extent of imposition of cost of Rs.5,000/- as condition precedent in allowing Ext.P4.

2. Heard both sides.

3. Ext.P4 application is one for issuance of a commission for inspecting the property with the assistance of a surveyor and to submit a plan and report. In Ext.P5 order the trial court found that for a proper disposal of the case issuance of a commission is necessary. At the same time, the court found that there has been laches on the part of the plaintiff and therefore, directed to pay a cost of Rs.2,500/- to the District Legal Services Authority, Manjeri and Rs.2,500/- to the respondents. It is true that the suit is of the year 1997. There is some laches on the part of the party. But even the trial court was satisfied that for a proper disposal of the matter a report and surveyor's plan is necessary. So I feel that the amount of cost imposed is on the higher side and as a token of fine for the laches the plaintiff be directed to pay Rs.250/- as cost to the District Legal Services Authority, Msanjeri and Rs.250/- to the respondents. The

writ petitioner is directed to pay/deposit the said amount within a period of one month from today and on satisfying the condition the trial court is directed to issue a commission with the assistance of a surveyor for submitting a plan and report. Both sides be permitted to file work memos before the commissioner. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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